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11 **UNITED STATES DISTRICT COURT**

12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

13 MARIANA CRESCIONI,

14 Plaintiff,

15 vs.

16 UMG RECORDINGS, INC.,

17 Defendant.

CASE NO.:

COMPLAINT FOR:

1. **BREACH OF CONTRACT;**
2. **BREACH OF IMPLIED
COVENANT OF GOOD FAITH
AND FAIR DEALING;**
3. **UNJUST ENRICHMENT;**
4. **ACCOUNTING; AND**
5. **DECLARATORY RELIEF**

JURY TRIAL DEMANDED

1 Plaintiff Mariana Crescioni (“Crescioni” or “Plaintiff”), by and through her
2 counsel, complains against UMG Recordings, Inc. (“UMG” or “Defendant”), hereby
3 alleging as follows:

4 **NATURE OF THE CASE**

5 1. This is an action by Crescioni to recover from Defendant the sums that
6 Defendant has failed to pay and properly account to for Plaintiff from sales of the
7 song “Dale Don Dale” in digital and mobile formats, under the agreement dated
8 April 1, 2005 (the “Agreement”) without any legal right, justification, or excuse
9 whatsoever. Based on this flagrant and willful failure to account, and Defendant’s
10 failure to render timely statements, Plaintiff also seeks a declaration from this Court
11 to terminate the Agreement.

12 **PARTIES**

13 2. Plaintiff Mariana Crescioni is an individual residing in Dallas, Texas.

14 3. Defendant UMG is, and at all times relevant hereto has been, a
15 corporation duly organized and existing under the laws of the State of Delaware,
16 with its principal place of business at 2220 Colorado Avenue, Santa Monica,
17 California, 90404.

18 **JURISDICTION AND VENUE**

19 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332,
20 as Plaintiff and Defendant are citizens of different U.S. States and/or citizens of a
21 State and citizens or subjects of a foreign state, and the amount in controversy
22 exceeds \$75,000.00, exclusive of interest and costs.

23 5. UMG conducts business in the State of California, and UMG is
24 therefore subject to this Court’s personal jurisdiction. Venue is appropriate in this
25 Court under 28 U.S.C. §§ 1391(b)(1) & 1391(b)(2) because UMG has its principal
26 place of business in Santa Monica, California and a substantial part of the events
27 giving rise to Plaintiff’s claims occurred in this judicial district.
28

(and for the avoidance of doubt in respect of foreign exploitation, net receipts actually received by UNIVERSAL in the United States from foreign sources), less: (i) the UNIVERSAL Distribution Fee [30%]; (ii) intentionally deleted (iii) applicable taxes, if any; and (iv) any other amounts due by you to Universal under this agreement; and (v) a 5% reserve which shall be retained by UNIVERSAL to cover any currently unidentified marketing costs (including co-op advertising costs), which shall be liquidated to you to the extent not used to offset actual marketing costs incurred by UNIVERSAL in the billing month following upon such determination.”

11. UMG has not accounted to Plaintiff monthly as required under the Agreement.

12. UMG has taken improper deductions against revenues from its foreign affiliates which appear to be intercompany charges.

13. UMG has (i) applied an incorrect royalty rate on its accountings, (ii) failed to render accounting statements or to report sales for certain periods in which it received income under the Agreement, and (iii) failed to provide meaningful detail on domestic sales from which Plaintiff could determine if she was being accounted to properly under the Agreement.

14. On November 1, 2024, Plaintiff sent a certified letter via the United States Postal Service (USPS) to UMG, formally requesting an audit pursuant to the parties’ Agreement. In that notice, Plaintiff highlighted a serious and material example of underreporting for the accounting period ending March 2024, in which UMG improperly calculated Plaintiff’s royalty at a rate of 1.33%, rather than the seventy percent (70%) of Net Proceeds required under the Agreement. Furthermore, based on the “ICLA” column in the statement provided, the royalty base was reduced by up to sixty percent (60%) due to improper intercompany deductions on revenues collected by UMG’s foreign affiliates. This certified notice was sent in accordance

1 with Section 13(d) of the Agreement, which provides that neither party shall be
2 entitled to recover damages or terminate the agreement due to a material breach by
3 the other party unless the breaching party fails to cure such breach within thirty (30)
4 days following receipt of written notice from the non-breaching party. This provision
5 does not apply to warranties for which a specific cure period is provided, breaches
6 incapable of being cured, or applications for injunctive relief. Plaintiff complied with
7 these contractual obligations by sending timely certified notice, and Defendant UMG
8 failed to cure the identified breaches within the specified timeframe, thereby entitling
9 Plaintiff to seek legal remedies before this Court.

10 15. On the same date as the certified letter sent via the United States Postal
11 Service on November 1, 2024, attorney Matt Greenberg, on behalf of Plaintiff, also
12 sent a courtesy email to Alexandra (Alex) Geller, Vice President and Litigation
13 Counsel at UMG, notifying her of the certified correspondence and enclosing related
14 documents. This correspondence further confirms that UMG, through its legal
15 department, was properly notified of the claims raised in the November 1st certified
16 letter and afforded an opportunity to cure the breaches consistent with the notice and
17 cure provisions of the governing agreements.

18 16. UMG has failed to allow Plaintiff's auditors to examine the books and
19 records in connection with the Agreement.

20 17. UMG has also wrongfully asserted a claim with SoundExchange that it
21 owns the master recording of Don Omar's "Dale Don Dale" (SXID: SX210LPU5K)
22 and is entitled to collect digital sound recording performance royalties associated
23 with that master, even though UMG holds no valid ownership interest in the master
24 that would justify such a claim. Plaintiff have notified both UMG and
25 SoundExchange of this dispute and of Luar Collective Inc.'s rightful and exclusive
26 designation by Plaintiff Mariana Crescioni as the sole entity entitled to receive all
27 such SoundExchange royalties. Notably, this is the second time UMG has improperly
28 asserted rights over these royalties—despite having previously relinquished its claim

1 in 2016, after Plaintiff formally challenged both UMG and SoundExchange.
2 Following that relinquishment, SoundExchange paid the royalties owed to Plaintiff.
3 18. Following that notice, UMG again relinquished its claim, but only after
4 Plaintiff took formal action. This recurring pattern of assertion and withdrawal
5 demonstrates an ongoing threat to Plaintiff's rights, and the need for judicial
6 intervention. Therefore, despite UMG's most recent withdrawal, Plaintiff seeks a
7 declaratory judgment confirming its exclusive rights of the recording, and a
8 permanent injunction prohibiting UMG from asserting or enforcing any rights to
9 either recording now or in the future.

10 **FIRST CAUSE OF ACTION**

11 **(Against UMG for Breach of Contract)**

12 19. Plaintiff incorporates hereby reference, each and every allegation of
13 paragraphs 1 through 18, inclusive, as though fully set forth herein.

14 20. UMG has breached the Agreement by, among other things, the
15 following reasons:

- 16 a. Failing and refusing to timely render accurate and proper statements
17 as to royalties due to Plaintiff;
- 18 b. Deducting impermissible intercompany charges from the royalties
19 before rendering accountings and payments to Plaintiff under the
20 Agreement;
- 21 c. Rendering incomprehensible royalty statements concerning domestic
22 sales so as to hide the true basis for UMG's accountings to Plaintiff.

23 21. Rendering incomprehensible royalty statements concerning domestic
24 sales so as to hide the true basis for UMG's accountings to Plaintiff.

25 22. Plaintiff have performed all conditions, covenants and promises
26 required pursuant to the terms of the Agreement, except those conditions, covenants
27 and promises which have been prevented or otherwise excused by the conduct of
28 UMG.

23. Until in or about June of 2022, for among other reasons, before that date (a) Plaintiff did not, nor could have known through reasonable diligence or could have been able to discover the breaches; and (b) UMG made various misrepresentations and omissions to Plaintiff relating to the relevant facts, and UMG failed to disclose to, and actively concealed from, Plaintiff said omissions and misrepresentations and the true information concerning the same, in order to induce Plaintiff to refrain from filing this action, and Plaintiff reasonably relied in good faith on the misrepresentations and omissions to her detriment.

24. As a direct and foreseeable result of UMG's breaches of contract, Plaintiff has suffered, general, special and incidental damages in an amount to be proven at trial, but which Plaintiff is informed and believes, and based thereon alleges, are within the jurisdictional limits of this Court, plus pre-judgment and post-judgment interest at the legal rate.

25. The breaches of the Agreement by UMG are so pervasive and material that there are grounds for this Court to declare the termination of the Agreement.

SECOND CAUSE OF ACTION

(Against UMG for Breach of Covenant of Good Faith and Fair Dealing)

26. Plaintiff incorporates herein by reference each and every allegation of paragraphs 1 through 25 inclusive, as though fully set forth therein.

27. Plaintiff is further informed and believes and thereon alleges that if and when any such artists or rightsholders are able to overcome the obstacles created by this conduct and demonstrate that the royalties are understated, consequently being entitled to greater amounts than contended, UMG attempts to "negotiate" settlements to enable the retention of a portion of its wrongful gain, avoid paying interest for the use of the participant's money upon threat, expressed or implied, that a long, arduous, and expensive litigation will be a greater loss for the claimant against its corporate power.

FOURTH CAUSE OF ACTION

(Against UMG for an Accounting)

35. Plaintiff incorporates here by reference each and every allegation of paragraphs 1 through 34, as though fully set forth herein.

36. The amount of money due from UMG to Plaintiff pursuant to the Agreement is unknown to Plaintiff and cannot be ascertained without a full and complete accounting.

37. Plaintiff has demanded that UMG render a full, complete and accurate accounting to her to ascertain the full amount of money owed to her, but UMG have failed and refused and continue to fail and refuse to render such an accounting. Thus, Plaintiff requests that the Court order UMG to render said accounting immediately.

FIFTH CAUSE OF ACTION

(Against UMG for Declaratory Relief: Contractual Termination)

38. Plaintiff incorporates here by reference each and every allegation of paragraphs 1 through 37, inclusive, as though fully set forth herein.

39. The Agreement provides that Plaintiff has a right to terminate the Term after thirty days notice to the breaching party and the non-breaching party's failure to cure the breach.

40. UMG not only failed to cure the breach, but it did not respond in any reasonable or good faith way to Plaintiff's demands to cure the breaches as required by contract and up to this day.

41. By virtue of the wrongful acts alleged in this Complaint, Plaintiff is entitled to an order of this Court confirming Plaintiff's termination of the Agreement and excusing Plaintiff from further performance thereof.

SIXTH CAUSE OF ACTION

(Against UMG for Declaratory Relief: Material Breach Frustrating Purpose)

42. Plaintiff incorporates here by reference each and every allegation of paragraphs 1 through 41, inclusive, as though fully set forth herein.

1 43. The breach of the Agreement alleged herein affects the purpose of the
2 Agreement in a material and substantial way, defeating the purpose of the
3 Agreement.

4 44. UMG has failed to perform its essential obligations under the contract
5 and the breaches alleged have frustrated the purpose of the contract.

6 45. By virtue of the wrongful acts alleged in this Complaint, Plaintiff is
7 entitled to an order of this Court terminating the Agreement and excusing Plaintiff
8 from further performance thereof.

9 **WHEREFORE**, Plaintiff prays for judgment against Defendant UMG
10 Recordings, Inc. as follows:

11 **AS TO THE FIRST CAUSE OF ACTION:**

12 1. For general, special and incidental damages against UMG, in an
13 amount to be proven at trial;

14 **AS TO THE SECOND CAUSE OF ACTION:**

15 2. For general, special and incidental damages against UMG, in an
16 amount to be proven at trial;

17 **AS TO THE THIRD CAUSE OF ACTION:**

18 3. For the imposition of a constructive trust over the monies that
19 should have been paid under the Agreement to Plaintiff;

20 **AS TO THE FOURTH CAUSE OF ACTION:**

21 4. For an accounting from UMG of the royalties and other monies
22 due to Plaintiff.

23 **AS TO THE FIFTH CAUSE OF ACTION**

24 5. For a Declaration that the Agreement is terminated and of no
25 force and effect and Plaintiff is excused from further performance thereunder.

26 **AS TO THE SIXTH CAUSE OF ACTION**

27 6. For a Declaration that the Agreement is terminated and of no
28 force and effect and Plaintiff is excused from further performance thereunder

1 **ON ALL CAUSES OF ACTION:**

2 7. For costs of suit, incurred herein;

3 8. For pre- and post-judgment interest at the maximum legal rate;

4 and

5 9. For such other and further relief as this Court may deem just and

6 proper.

7 Dated: June 24, 2025

8 FREUNDLICH LAW, APC

9 BY: /s/ Kenneth D. Freundlich

10 Kenneth D. Freundlich

11 Jonah A. Grossbardt

12 *Attorneys for Plaintiff Mariana Crescioni*

Demand for Jury Trial

Plaintiff Mariana Crescioni hereby demands a trial by jury on all issues so triable.

DATED: June 24, 2025

FREUNDLICH LAW, APC

By: /s/ Kenneth D. Freundlich

Kenneth D. Freundlich

Jonah A. Grossbardt

FREUNDLICH LAW, APC

Attorneys for Plaintiff Mariana Crescioni